

Consultation

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16–19 organisation and inspection: a consultation document

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Foreword

For too many young people, the 14–19 age range has been a period of falling engagement in learning and rising disaffection. Many serious attempts to change this have failed. We must succeed. We will be setting out our detailed plans for the creation of a coherent, well-balanced 14–19 phase of learning in a separate document in the New Year, but in the meantime we need to take the opportunity presented by an Education Bill to consult on legislative changes to the 14–19 phase.

The proposals in this document cover three areas. The development of a 14–19 phase of learning can happen only if all those involved – the Learning and Skills Council, local education authorities, schools, colleges and training providers – work in partnership with each other. The establishment of the LSC from April 2001 for the first time brought together responsibility for all post-16 learning under a single body. Enabling the LSC to put forward proposals for the improvement of post-16 provision in an area, through reorganisation, for determination by the holder of my office, would be a logical extension of their current strategic planning role. It would encourage and promote coherent high quality provision, offering all young people a broader range of academic and vocational opportunities. The LSC will want its proposals to be securely based in a working partnership with LEAs, schools and colleges, within a framework which will ensure that the interests of local stakeholders are fully respected. There will be no threat whatever to successful school 6th forms. They play, and will continue to play, a central role in post-16 provision, and we want more of them.

The expansion of high quality provision post-16 will contribute to the raising of standards. School sixth forms, sixth form colleges, further education colleges and private training providers all have a key role to play in raising achievement. We propose to make it easier, through issuing guidance to School Organisation Committees and the Schools Adjudicator, for good schools without sixth forms to open them. We also propose to enable community schools to publish their own proposals for the opening of a sixth form.

Extending the ambit of area inspections by OFSTED and the Adult Learning Inspectorate from 16–19 to 14–19 would be a milestone along the path to a coherent 14–19 phase. A report of 14–19 provision in an area will enable local education authorities, the LSC and the Government to see the overall pattern of provision in an area and to consider jointly what steps might be needed to remedy any deficiencies revealed. I will ask OFSTED to ensure that this proposal will not increase the burden of inspection.

The legislative timetable for our forthcoming Education Bill means that the period for this consultation will be reduced to 6 weeks. I am keen to ensure that the Education Bill – which is essential to delivering much needed changes to our education system – is fully informed by the findings from this consultation exercise. I want to have the fullest consultation on these proposals, and we are intending to discuss them with key players. I look forward to your response.

Estelle Morris

Introduction

1. Chapter 4 of the recent White Paper “Schools: Achieving Success” set out the broad outline of the Government’s intentions for creating a coherent and well-balanced 14–19 phase of learning – a crucial strategy for the achievement of our objective of well-motivated young people playing their full part in society and in the economy. We intend to capitalise on the excellent foundation that pupils will have achieved by age 14 through the primary and Key Stage 3 strategies by ensuring that a greater range of opportunities is available to meet young people’s individual aptitudes and aspirations. This means a wider set of learning pathways, with more opportunities for high class vocational education, whether as part of a mixed academic and vocational programme or within a predominantly vocational programme. The purely academic route would of course still be available to those who want it.
2. A detailed paper covering a wide range of aspects of 14–19 provision will be published for consultation in the coming months. In the meantime we are planning in the forthcoming Education Bill to bring forward some proposals to contribute to the development of a coherent 14–19 phase of education. This document describes our proposals in three particular areas:
 - enabling the LSC to take a broad strategic view of the provision in an area and to put forward proposals to the Secretary of State for determination;
 - making it easier for high quality schools without sixth forms to open them;
 - extending the ambit of area inspections by OFSTED and ALI to cover provision for 14–19 year olds.

Background

3. The Learning and Skills Act 2000 places a general duty on the Learning and Skills Council for England (LSC) to secure the provision of proper facilities for education and training for 16–19 year olds. Such facilities are provided through:
 - school sixth forms;
 - sixth form colleges;
 - further education colleges;
 - 16–19 institutions;
 - private training providers; and
 - employers.
4. The LSC has powers to make proposals to the Secretary of State for the establishment or dissolution of further education corporations (which include sixth form colleges), but its powers to influence the provision of education by school sixth forms or 16–19 schools are limited. Proposals for the opening, closure or change of age range of schools maintained by local education

authorities (LEAs) are brought forward either by the LEA or by the governing body of the school. Decisions on proposals published by the LEA that do not attract objections, and are not linked to other proposals to be decided by the School Organisation Committee (SOC), are made by the LEA. Other proposals are sent to the SOC for the area and, if the Committee does not reach a unanimous view, are referred to the Schools Adjudicator for decision.

5. Area inspections of the quality and availability of education and training for 16–19 year olds are carried out by OFSTED and the Adult Learning Inspectorate (ALI). The LSC prepares a plan of the action it proposes to take, and the timescale, as a result of a report of an area inspection.

The need for change

6. We see the need for there to be a better legislative framework for the provision of high quality education and training: one that will align the LSC's responsibility to fund 16–19 education with its duty to secure the provision of proper facilities for education and training for 16 to 19 year olds in a way that will encourage and promote coherent high quality provision, offering all young people a broader range of academic and vocational opportunities after age 16. The present division of powers between LEAs, schools and the LSC makes this more difficult.
7. The development of a 14–19 phase of learning does not imply the development of new institutions. In the many localities where the existing pattern of provision is delivering the standards and opportunities required by young people, structural change will not be an issue. However, the Government does envisage greatly increased collaboration on the part of all providers of 14–19 education and training in a local area to secure increased opportunities for all students, irrespective of their parent institution or provider.
8. Pre-16, almost all pupils are, and will continue to be, on secondary school rolls. Existing powers in the Learning and Skills Act to enable further education sector colleges to provide secondary education for Key Stage 4 pupils, together with the impact of greatly increased collaboration between schools, colleges and training providers, will not change the fundamental pattern of provision in an area. The responsibility for ensuring the sufficient provision of schools for their area will therefore continue to rest with the LEA.
9. For the 16–19 age range, however, provision is made by a range of different institutions and training providers, with a significant element made by schools maintained by LEAs. At present the LSC can put forward proposals to the Secretary of State for the establishment and dissolution of sixth form colleges and further education colleges. (No proposals are required for the organisation of sixth form centres within further education colleges.) It cannot make proposals affecting school sixth forms or 16–19 schools except in the very limited context of a school sixth form or 16–19 school being found still to be inadequate following a second OFSTED inspection.

- 10.** School sixth forms, sixth form colleges and further education colleges all have a vital role to play in raising standards at 16–19. In putting forward our proposals for a new legislative framework, there is no question of trying to impose uniformity of provision across the country. The provision to be made available must meet the needs and circumstances of the local area and the wishes of its students and those living and working there, while ensuring the widest availability of opportunities for all. It should build on the strengths of the local institutions and have appropriate regard to the existing diversity of provision, including denominational provision.

LSC power to put forward reorganisation proposals

- 11. We propose in the forthcoming legislation to provide for the LSC to be able to put forward proposals for the improvement of 16–19 provision in an area through reorganisation and for these proposals to be subject to determination by the Secretary of State. The procedures to be followed by the LSC and the Secretary of State would be set out in Regulations and guidance.**

Q. Do you support the proposal that the LSC should be able to put forward proposals for the improvement of 16–19 provision in an area through reorganisation?

- 12.** We propose that there should be two possible triggers for the publication of proposals: the first being the report of an area inspection conducted by OFSTED and ALI; and the second where there has not been an area inspection, but where evidence such as institutional reports or students' achievement or participation rates convinces the LSC that the provision in an area is not sufficient or adequate to meet the needs of students. The proposals could cover any or all of the provision for 16–19 year olds made by schools, sixth form colleges and FE colleges. (Training providers do not need to be covered as their provision is managed by the LSC through contractual arrangements.)
- 13.** If an area inspection report makes recommendations relating to the improvement of the quality or availability of education or training inspected or to improving the standards achieved by the students in that area, we propose that the LSC should be under a duty to consider structural improvement and, where they conclude that this would be likely to raise standards substantially, to publish proposals for change. This additional requirement on the LSC, in addition to their existing duty to prepare an action plan following an area inspection if directed to do so, will provide the necessary strategic leadership to ensure that the results of area reviews are acted upon.
- 14.** We intend to place a similar duty on the LSC to publish proposals where evidence derived from inspections of schools, colleges or LEAs, from examination performance or from participation trends shows that the provision in an area is not sufficient or adequate to meet the needs of students.

Q. Do you support the triggers for the publication of proposals by the LSC?

- 15.** We believe it would be in keeping with the LSC's strategic role for 16–19 provision, including their preparation of local strategic plans, for them to take the lead in putting forward proposals in cases of inadequate provision. We suggest that all such proposals should be approved by the LSC's Young People's Learning Committee before the local LSC publishes them. We will encourage the LSC to widen still further the representation of those with knowledge and understanding of schools on the Young People's Learning Committee.
- 16.** We will ask the LSC to put in place effective local consultation mechanisms with schools and local education authorities so that they are informed about the local LSC's priorities and engaged in any debate about future structures. Before publishing any proposals, the local LSC should consult all those in an area, including secondary schools, colleges, SOC's and training providers. We would expect LEAs and individual schools and colleges to be working closely with the LSC in the development of the 14–19 phase. In this context we would expect them also to work together on the formulation of proposals for the organisation of provision, and to be proactive in putting forward their own ideas.
- 17.** The existing provisions whereby schools or LEAs can put forward proposals will remain in force unchanged. However, if such proposals are put forward at the same time as the LSC has put forward proposals affecting the area as a whole, and if they are in conflict with those of the LSC, we propose that the SOC should not consider them until after the Secretary of State has determined the LSC proposals. We would expect, and will make clear in guidance to the SOC and Adjudicator, that, if the LSC's proposals are approved, conflicting proposals put forward by others to the SOC should be rejected; and that, in deciding proposals which appear not to be in conflict with LSC proposals, the SOC and Adjudicator should have regard to the need for them to be compatible with those approved by the Secretary of State. Similarly any proposals affecting provision for 16–19 year olds that have been published by the LEA and are awaiting LEA determination should be passed to the SOC for decision.

Q. Do you support the proposals for handling conflicting proposals?

- 18.** We consider it appropriate for the Secretary of State to resolve and determine proposals for 16–19 reorganisation, after local consultation and in the light of any objections, as such proposals are more complex, go wider than a single LEA in many circumstances and affect parents, young people and employers with an impact on local labour markets and economic development. In reaching a decision, the Secretary of State would have regard to the views of all those affected by the proposals, including schools, colleges, training providers and the SOC, and would take into account all the relevant 16–19 provision of an area, including that made by City Academies, City Technology Colleges or City Technology Colleges for the Arts.

Q. Do you agree that proposals for the reorganisation of 16–19 provision in an area should be subject to determination by the Secretary of State?

- 19.** We do not propose to define too restrictively what might constitute an area for the purposes of LSC reorganisation proposals. It might be within a single local LSC area or cross the boundaries of two such areas; it might cover more than one LEA; a single LEA; or part of a single LEA. Consideration of the organisation of provision affecting a whole area might in the event result in proposals which affected only one or two institutions. Where that is the case it should be made clear in the case for the proposals why the changes proposed would benefit the area as a whole. In the event of a dispute as to whether proposals put forward by the LSC do relate to the provision for a whole area, the Secretary of State will resolve the dispute.

Q. Do you support the proposal for the Secretary of State to resolve any dispute on whether a proposal affects the organisation of provision for an area?

- 20.** We wish to retain a strong and continuing role for the SOC in the consideration of proposals put forward by the LSC. We propose that the LSC should have the responsibility for receiving any objections to their proposals and seeking the written comments of the SOC(s) for the schools which might be affected. They should then forward their proposals, together with the objections, the SOC's comments, and their own comments on the objections, to the Secretary of State.
- 21.** The procedures, some of which we would propose to include in Regulations, would include:
- consultation by the LSC before it publishes proposals, and who should be consulted statutorily;
 - the manner of publication of proposals; what information must be included; the sending of proposals to the SOC and to other specified individuals or organisations;
 - arrangements for objections to be made and the timescale;
 - objections, with comments by the LSC and the SOC's comments, to be sent by the LSC to the Secretary of State, and the timescale;
 - determination by the Secretary of State: approval, with or without modifications; conditional approval; or rejection, with reasons in the case of rejection or modifications.

Q. Do you agree with the procedures suggested?

- 22.** In the context of the information that has to be provided, we would require the LSC to set out in detail its reasons for making its proposals. Where these followed an area inspection, we would expect LSC to refer to the findings of the inspection report. Where there had been no prior inspection, we would expect the LSC to set out:
- the external evidence that had led it to consider reorganisation;
 - the factors that caused it to believe reorganisation to be necessary, including the need to meet local skills shortages;
 - the considerations that it had taken into account when formulating its proposals;
 - the local consultations it had conducted; and
 - what it expected to be the results of the reorganisation, and the timescale.

The external evidence would normally be derived from:

- inspections of schools, sixth form colleges or FE colleges;
- whole LEA inspections;
- examination performance in both academic and vocational subjects, with particular reference to national trends; and
- participation in all education and training routes post-16, again with particular reference to national trends.

- 23.** As already indicated, proposals for the opening or closure of individual institutions, whether school sixth forms, sixth form colleges or FE colleges, which did not result from consideration of the organisation of 16–19 provision for a whole area would continue to be handled in the existing way, through the SOC and Schools Adjudicator in the case of schools and the Secretary of State in the case of sixth form colleges and FE colleges. At present FE colleges wishing to establish dedicated sixth form centres may do so without seeking approval from the LSC or consulting anyone, as this is considered to be a matter of internal college reorganisation. We wish to encourage the establishment of such centres, but also to ensure that they are soundly based and will contribute to raising standards. We propose therefore to ask the LSC to ensure that, if any FE college wishes to establish such a centre, this centre will contribute to improving the achievement and participation of 16–19 year olds in the area and provide value for money.

Expansion of high quality provision

- 24.** We would expect any proposal for expansion of an institution providing 16–19 education and training to put forward reasons why such an expansion would contribute to raising standards of achievement, whether this was in the context of provision for a whole area or of an individual school or college. We intend to make it clear in guidance that raising standards is a key criterion for approval.
- 25.** We recognise that there are a number of successful secondary schools which currently provide education for those up to age 16 only, and who would wish to add a sixth form. **We should like to make it easier for them to do so, and propose to issue new guidance to SOCs setting out the basis on which proposals for new school sixth forms should be considered. We propose also to provide for community schools to be able to publish proposals to add sixth forms.**
- Q. Do you support the proposal to make it easier for a good school without a sixth form to open a sixth form?**
- Q. Do you support the suggestion that a community school be able to publish proposals to open a sixth form?**

- 26.** We envisage three criteria, one based on the size of the proposed sixth form and two deriving from the quality of the existing school. On size, we believe that schools should be asked how they would plan for a new sixth form to achieve a minimum total size of, say, 150 pupils within three years of its establishment, but with flexibility according to local circumstances – e.g. a smaller number might be approved for a school in a rural area, or a longer timescale might be agreed. Any school planning for a smaller size of sixth form should be able to point to firm arrangements for collaboration with other schools, colleges and training providers to ensure a broad curricular offering post-16. We propose that guidance to SOCs and the Schools Adjudicator would include these criteria, and invite decisions to be taken in the light of the value for money of the proposed provision compared with that elsewhere in the area.
- 27.** In order to demonstrate the quality of their existing provision, schools would be judged on the basis of their latest OFSTED reports. Those in special measures or with serious weaknesses would not be allowed to expand their age range. They should also have a satisfactory record in the proportion of pupils achieving 5 A*–C GCSE grades, taking account of the nature of the intake of the school, and demonstrate a record of improving or consistently high standards.
- 28.** We will encourage the LSC actively to consider the opening of new school sixth forms in the context of any area reorganisation proposals and to use these criteria when doing so.

Extending area inspections to cover 14–19 provision

- 29.** To support the developing coherence of a 14–19 phase of education, and to help in securing a wider range of opportunities for all young people aged 14–19, **we believe that the joint OFSTED and ALI inspections of area provision, put in place for education and training for 16–19 year olds by the Learning and Skills Act, should be extended to cover education and training for 14–19 year olds, once the new extended opportunities are in place.**
- 30.** We will ask OFSTED to ensure that this does not add to the burden of inspection on institutions. Her Majesty's Chief Inspector of Schools in England will report on how this will be achieved.
- 31.** Extending the ambit of area inspections to cover 14–19 education and training does not imply any change in the arrangements for reorganisation proposals suggested in paragraphs 11–23 above: the LSC would not be able to propose changes to schools with no post-16 provision (except to propose the establishment of a sixth form).
- Q.** **Do you support the proposal for area inspections conducted by OFSTED and ALI to cover 14–19 provision, rather than 16–19 provision?**

Consultation response form

Please use this pro forma in responding to the consultation paper or you can download this questionnaire from www.dfes.gov.uk/consultations and e-mail your response to 1619.consultation@dfes.gsi.gov.uk

Name:

Organisation:

Address:

Your response may be made public unless you indicate otherwise.

Please tick box if you want your response to remain confidential

☐

Please tick the ONE of the following boxes that best describes you as a respondent:

☐ LEA

☐ Community School

☐ Voluntary School

☐ Foundation School

☐ Headteacher or teacher

☐ College

☐ Principal or Lecturer

☐ Training Provider

☐ School Governor

☐ College Governor

☐ Parent

☐ Diocesan

☐ LSC

Other

1 Do you support the proposal that the LSC should be able to put forward proposals for the improvement of 16–19 provision in an area through reorganisation, in the circumstances described and following consultation? [paragraph 11]

Yes

☐

No

☐

Comments

2. Do you support the proposal that proposals for the reorganisation of 16–19 provision in an area should be subject to determination by the Secretary of State? [paragraphs 11 and 18]

Yes

☐

No

☐

Comments

3. Do you support the triggers for the publication of proposals by the LSC? [paragraphs 12 to 14]

Yes

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No

☐

Comments

4. Do you support the proposals for handling conflicting proposals? [paragraph 17]

Yes

☐

No

☐

Comments

5. Do you support the proposal for the Secretary of State to resolve any dispute on whether a proposal affects the organisation of provision for an area? [paragraph 19]

Yes

☐

No

☐

Comments

6. Do you agree with the procedures suggested? [paragraph 21]

Yes

☐

No

☐

Comments

7. Do you support the proposal to make it easier for a good school without a sixth form to open a sixth form? [paragraph 25]

Yes

☐

No

☐

Comments

8. Do you support the suggestion that a community school be able to publish proposals to open a sixth form?

Yes

☐

No

☐

Comments

9. Do you support the proposal for area inspections conducted by OFSTED and ALI to cover 14–19 provision, rather than 16–19 provision? [paragraph 29-31]

Yes

☐

No

☐

Comments

Any other comments

Thank you for taking the time to complete this questionnaire. Unfortunately, we are unable to reply to each response individually. We will consider all responses carefully and will make the findings of this consultation exercise publicly available.

Please send your response to: Ms Jackie Bellfield
Consultation Unit
Department for Education and Skills
Castle View House
East Lane
Runcorn WA7 2GJ

Alternatively, you can download this questionnaire from www.dfes.gov.uk/consultations and e-mail your response to 1619.consultation@dfes.gsi.gov.uk

The Cabinet Office Code of Practice on Written Consultation – Seven Key Criteria

The Cabinet Office Code Of Practice On Written Consultation (December 2000) sets out seven key criteria which apply to all UK national public consultations on the basis of a document in electronic or printed form. The criteria are summarised below: the full criteria are set out in the Code and can also be found at www.cabinet-office.gov.uk/servicefirst/index/consultation.htm

- 1.** Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage
- 2.** It should be clear who is being consulted, about what questions, in what timescale and for what purpose
- 3.** A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain
- 4.** Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals
- 5.** Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation
- 6.** Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken
- 7.** Departments should monitor and evaluate consultations, designating a consultation coordinator who will ensure the lessons are disseminated.